

BOARD OF ZONING APPEALS MINUTES
APRIL 16, 2012

The Board of Zoning Appeals met in regular session on Monday, April 16, 2012, in room 802 Municipal Building.

Members present: Ms. Davis – Chair, Mr. Paschal, Mr. Dent, Mr. Solum, Ms. Chivers, Mr. Dukes, Mr. Dickinson, Vice-Chair, Mr. Mitchell, Mr. Booker, Mr. Sims and Mr. Jones

Also present: Bob Austin, Zoning Administrator and Lois Schmidt, Secretary

Absent: Mr. Oliver, Wayne Brown, City Attorney, and Pam Costible, Zoning Enforcement

Chairperson Davis called the meeting to order at 2:30 P. M.

1. Minutes – March 19, 2012

The Board notified Staff that the wrong minutes were mailed to them.

The correct minutes were provided. After some discussion the following action was taken:

A MOTION was made by Mr. Solum that the March minutes be DEFERRED until the May meeting to allow for proper review; seconded by Mr. Booker. MOTION carried.

2. Will Buchanan, on behalf of DSM Chemicals (Nipro, Inc.) – Section 8-1-44(m)(8) – requesting a variance of the Flood Damage Prevention Ordinance to provide a suitable building pad for an approximately 30' x 40' equipment building to be located at 1802 Sand Bar Ferry Road. Fill will be brought in from off-site and the change in grade may slightly exceed the 2 feet at the building pad location. Tax Map 076-0-011-00-0 Zoned HI (Heavy Industry)

Mr. Will Buchanan, Johnson Laschober and Associates, and Joey Bruymincyz, DSM, were present on behalf of the petition.

Chairperson Davis asked if they have the authority to speak for the owner.

Both said yes. Mr. Buchanan stated that DSM must address a consent order by the court system and provide a building that meets Federal standards for a current process being conducted. In order to do this they will need to bring in some fill dirt. The building will be constructed following guidelines for floodproofing a structure.

There were no concerned citizens present.

Mr. Mitchell asked if there had been any objections expressed to the petitioners.

Mr. Buchanan said no.

A MOTION was made by Mr. Mitchell that the variance be APPROVED; seconded by Mr. Sims. MOTION carried.

3. Budget Buildings, on behalf of Willie Dominguez – Section 10-1 – requesting a variance to rebuild an existing accessory structure located at 3323 Victor Road on the existing concrete slab that lies approximately 4 feet from one side and the rear property line where 10 feet is required off each property line. Tax Map 123-1-106-00-0 Zoned R-1B (One-family Residential)

Mr. Steve Scott, Budget Buildings, was present on behalf of the petition.

Chairperson Davis asked if Mr. Scott had the authority to speak for the owner.

Mr. Scott said yes and explained that the owner wants to remove an old wood structure but retain the concrete pad and build a 12 x 22 foot metal building in its place.

There were no concerned citizens present.

Mr. Sims asked if the new building would be the same size as the old one.

Mr. Scott said yes.

Ms. Chivers asked if Mr. Scott had heard any objections.

Mr. Scott said the nearest neighbor is family.

A MOTION was made by Mr. Dukes that the variance be APPROVED; seconded by Mr. Solum. MOTION carried.

4. Henry Doolittle – Section 23-5(a) – requesting a variance for a small building addition at 510 Skyview Drive that would be located approximately 13.9 feet from the right-of-way of Gordon Park Road on this corner lot where 40 feet is required. Tax Map 059-0-028-00-0 Zoned LI (Light Industry)

Mr. Henry Doolittle was present on behalf of the petition. Mr. Doolittle stated that he needs to expand his commercial painting business to provide powder coating and this necessitates this building addition. Since the painting will be done in one building and the powder coating in another they need to be situated close together so there is no damage done during the processes. Only one small corner is actually encroaching into the setback.

There were no concerned citizens present.

Mr. Mitchell asked if the move from process to process will be done by conveyor.

Mr. Doolittle said no a batch coating process is done. Mr. Doolittle stated there is already a fence on the property line.

Mr. Dickinson asked if it was 50 feet to the fence.

Mr. Doolittle said no.

Mr. Dickinson asked if it was 50 feet to the center of the road.

Mr. Doolittle said yes.

Mr. Jones asked if there were any objectors.

Mr. Doolittle said no.

Mr. Dent asked if this will block any traffic.

Mr. Doolittle said no.

A MOTION was made by Mr. Booker that the variance be APPROVED; seconded by Mr. Mitchell. MOTION carried.

5. Champion Windows of Augusta, on behalf of William & Ann Maxwell – Section 22-1 – requesting an addition to a residential townhome located at 2603 York Drive that would be located approximately 15 feet from the rear property line where 25 feet is required. Tax Map 012-3-007-00-0 Zoned B-2 (General Business)

Mr. Dwayne Luther, Champion Windows, was present on behalf of the petition.

Chairperson Davis asked if Mr. Luther had the authority to act for the owner.

Mr. Luther said yes and explained that the owners want to place a patio cover over the existing concrete patio.

Ms. Chivers said a cover only.

Mr. Luther said yes an aluminum cover.

Mr. Dent asked if the fence was on the property line.

Mr. Luther said yes and then the property is backed by common area owned by the development with a hotel on the neighboring property to the rear.

Mr. Dent said the cover would not be enclosed.

Mr. Luther said no an open patio cover.

Mr. Austin explained that the office had received a letter from the adjacent neighbor objecting to the request but with the misunderstanding that the space would be an enclosed sun porch.

Mr. Luther agreed that a misunderstanding had occurred because he had also heard from the development attorney questioning and “addition” when it was explained that it was an open patio cover they withdrew any objections.

Mr. Dickinson asked if you would access the patio from a door in the home and did the neighbor have the same patio and access.

Mr. Luther said yes and the neighbor has a bump out for a utility room.

Mr. Paschal asked how runoff from the new roof structure will be handled.

Mr. Luther said a gutter and downspout system will be in place to carry the runoff to the existing drainage system.

Mr. Dickinson asked the distance out from the house.

Mr. Luther said 10 feet.

Ms. Chivers asked if the yard is fenced.

Mr. Luther said yes.

Mr. Sims asked the height of the new roof.

Mr. Luther said 8 feet.

Mr. Mitchell suggested doing speaking to the neighbors to resolve the confusion and possibility the objection.

Mr. Luther said that was a possibility.

Mr. Jones asked if the homeowners association had been contacted.

Mr. Austin reminded the Board that the approval/disapproval of the homeowners association is not to be considered in their decision, not under the BZA jurisdiction.

Mr. Dent suggested postponing the petition to allow for the misunderstanding to be cleared up.

Mr. Paschal was not concerned about neighborhood sentiment but just the run off.

Mr. Luther repeated that it will drain into the common area with the other run off of the neighborhood.

Ms. Chivers agreed with the suggestion to postpone.

Mr. Mitchell said he would like to see the development's attorney's agreement to the plan in writing.

Chairman Davis explained that if the petitioner/owner addressed the neighbor's objection and cleared up the misunderstanding resulting in the objection being withdrawn his case would be strengthened.

Mr. Luther agreed.

A MOTION was made by Ms. Chivers that the variance be POSTPONED until the May hearing; seconded by Mr. Dent. MOTION carried.

6. Southern Steel and Siding, on behalf of Earnest Lasley – Section 21 – requesting a carport addition at 5206 Aruba Circle that would be located approximately 5 feet from the right-of-way of this private road where the average setback of the townhomes is 29 feet. Tax Map 040-4-026-00-0 Zoned B-1 (Neighborhood Business)

Mr. Johnny Crews, Southern Steel and Siding, was present on behalf of the petition.

Chairperson Davis asked if Mr. Crews has the authority to speak for the owners.

Mr. Crews said yes. Mr. Crews explained that the property owners want to cover the front driveway in order to allow for covered access by Mrs. Lasley who must use a walker and needs aid entering and leaving a vehicle. The Lasley's vehicle is too wide to accommodate this inside the attached garage. Mr. Crews presented pictures of other such carports in the neighborhood.

There were 5 concerned citizens present.

Chairperson Davis asked Mr. Crews if he was aware of neighborhood objection and the letter the BZA received from Jan Holt the Homeowners Association representative.

Mr. Crews said he was and had talked to the homeowner about the situation and they told him they were concerned that it would blow off and damage other property. Mr. Crews assured all that this would not happen with his product.

Mr. Jones asked if Mr. Crews had spoken to any of the concerned neighbors himself.

Mr. Crews said no they expect the homeowner to handle that.

Ms. Jan Holt explained that she is the manager of the homeowners association she stated that the pictures presented are of carports not located in this section of this large townhome development. Each section is ruled by its own restrictive covenants. Other neighbors are worried this will reduce their property values and that it sets a precedent that may make the restrictive covenants unenforceable. They also are concerned with the aesthetics of the structure. The restrictive covenants contain 6 separate sections that deal with such issues. She further added that this case was never brought before the homeowners association for approval.

Mr. Dent asked if the association is operating and the restrictive covenants were still valid.

Ms. Holt said yes and suggested that Southern Siding has been before them before and knows the procedure.

Mr. Jones asked if she was implying Southern Siding had ignored the rules.

Ms. Jones said she couldn't comment on that but she did talk to someone at Southern Siding and that person said they understood what procedure they would need to follow.

Mr. Crews stated that the company expects the property owner to handle those details.

Mr. Dent stated that it seems there was a misunderstanding and could a compromise be reached.

Ms. Martha _____, resident stated that the owner was contacted and to talked to about this and other matters. He is not receptive.

Mr. Dent said that it seems there is no room for compromise.

The assembled citizens agreed.

Chairperson Davis asked how close to the subject property do the concerned citizens present live.

It was determined they all lived on the same block.

Mr. Jones asked the person living right next door if they had contacted the owners personally.

Ms. _____ said no she went through the neighborhood association because communication with the owner in the past was unsuccessful.

Mr. Austin stated the Staff strongly recommends this petition be denied due to the precedent setting nature.

A MOTION was made by Mr. Dickinson that the variance be DENIED; seconded by Mr. Mitchell. MOTION carried.

7. Frank Neely – Section 22 – requesting a commercial pole barn addition at 2428 Peach Orchard Road that would be located approximately 10 feet from the right-of-way of Peach Orchard Road where the required setback is 31 feet. Tax Map 086-4-148-00-0 Zoned B-2 (General Business)

Mr. Frank Neely was present on behalf of the petition. Mr. Neely stated when he began construction on the building in question and believed he was far enough off the right-of-way but was wrong. When notified he stopped work immediately. The structure will be post with metal roof to be used as storage for pine straw and mulch for his landscape business.

Mr. Dickinson said it appears there would be room to move the building to another location on the property if the variance is denied.

Mr. Neely said he would have to move dirt due to the sloping of the property towards the rear. Plus he has a large drive through driveway to allow for truck traffic that you cannot see in the aerial.

Mr. Austin stated that after talks with the Staff the petitioner has agreed that should Peach Orchard Road need to be widened in the future the owner will assume all costs to move the structure to another location on the property.

Mr. Dent asked if the agreement will be in writing.

Mr. Austin said yes.

Mr. Dickinson said it is still too close to Peach Orchard Road and that setbacks on major thoroughfares are in place for many reason not least of which is safety.

Mr. Dent said there will be an expense to move the structure at some point.

Mr. Neely said he would rather take that expense later it would be financial hardship right now.

Mr. Booker asked if Mr. Neely obtained a building permit.

Mr. Neely said no there was some confusion there, he was told he did not need a permit if he did the work himself. He purchased the building kit and he and his workers began assembling it.

Mr. Dickinson asked who told him that.

Mr. Neely said a girl at License and Inspection Dept.

Ms. Chivers asked who told him it was to close.

Mr. Neely said a friend and he stopped work to clear the matter up.

Mr. Paschal asked how long Mr. Neely had been located here.

Mr. Neely said 14 years for his father and now 5 years for himself.

Mr. Dickinson asked Staff whether this was considered one of the City's Gateways.

Mr. Austin said no but definitely a major thoroughfare.

Mr. Dent asked how far he must move the building to legal.

Mr. Neely said 24 feet.

Chairperson Davis asked why not just move it.

Mr. Neely said the only other place that has a level grade would be the drive through land for his trucks and customer vehicles.

Chairperson Davis asked if a permit is needed for such buildings.

Mr. Austin said yes.

Mr. Jones asked if there was a compromise possible.

Mr. Neely said moving it would mean doing all the work over again and at a cost since all the posts are cemented in.

Mr. Dukes suggested a postponement to allow Mr. Neely to find a solution and present it to the Board.

Mr. Neely said the area in the rear needs to stay clear as it is an easement for the County to reach a water line.

Mr. Austin asked what purpose a postponement would serve and the petitioner has agreed to future terms at his own expense should the need arise.

Mr. Dickinson agreed but he hears serious issues and made a MOTION to DENY.

Mr. Mitchell stated that the Board should be careful about telling a business owner how to set up his business.

Mr. Paschal seconds the MOTION.

Mr. Austin suggested allowing the petitioner ample time to rectify the situation.

Mr. Dent suggested 60 days.

Mr. Dickinson upped that to 90 days.

Mr. Neely agreed to move the building at his expense when/if Peach Orchard Road needs to be expanded, requests that to pass.

An AMENDED MOTION was made by Mr. Paschal to DENY the variance and allow the petitioner 90 days to correct the setback issue; seconded by Mr. Sims. MOTION carried.

8. Integrity Engineering & Development Services, on behalf of McDonalds, U.S.A – Section 21 and Section 28–B – requesting a variance to erect a new pylon sign for a proposed McDonald's restaurant located at the corner lot known as 3646 Wheeler Road from 10 feet to 6 feet of the right-of-way of Augusta West Parkway. Tax Map 030-0-069-00-0 Zoned B-1 (Neighborhood Business)

Demetria Peterson, McDonalds U.S.A.; Mr Anthony Lynch, Integrity Engineering; and Mr. Troy Jourdan, Blanchard and Calhoun Commercial were present on behalf of the petition. Mr. Lynch explained that they have purchased this property to develop a new McDonalds restaurant but several years ago a portion of the road frontage on Augusta West Parkway was purchased for future road improvements. This reduction in right-of-way allows neighboring businesses to place their signs closer to the road than this property would allow.

There were no concerned citizens present.

Mr. Austin asked if Traffic Engineering had ok'd the sign.

Mr. Lynch said yes.

Mr. Dent asked if they would agree to provide that approval in writing.

Mr. Austin added would they agree to providing that in writing as a condition of approval.

Mr. Lynch agreed.

Ms. Chivers asked if there have been any objectors.

Mr. Lynch said no.

Mr. Austin said the property went through a zoning action last month with no objections.

A MOTION was made by Mr. Sims to APPROVE the variance with the condition that the petitioner move the building within 90 days; seconded by Mr. Dickinson. MOTION carried.

9. Greg Durrance – Section 33-5(d) and Section 8-4(e) – requesting to construct a 2,400 square foot storage building at 4524 Old Waynesboro Road (16 acres total) that would be used for personal storage and storing and securing equipment related to a home occupation (Inflatable Fun rentals). This two part variance, therefore, would be requesting a home occupation and a variance to exceed the 1,200 square foot accessory structure limitation. The proposed height of this multi-purpose accessory structure would be 24 feet where the Zoning Ordinance limits the height of accessory structures to 18 feet. Tax Map 276-0-006-02-0 Zoned R-1 (One-family Residential)

Mr. Greg Durrance was present on behalf of the petition. He stated that he operates an inflatable recreation business from his home and needs a structure large enough to set up the units for

cleaning and maintenance. No customers will come to the home and no events will be held there. He also has several acres so the building will not be noticeable. There were no concerned citizens present.

Chairperson Davis asked if there had been any objections.

Mr. Durrance said no.

Mr. Dent asked what was the measurement to the closest property line.

Mr. Durrance said at least 80 feet.

A MOTION was made by Mr. Mitchell that the variance be APPROVED; seconded by Mr. Solum. MOTION carried.

MEETING ADJOURNED

Bob Austin
Zoning Administrator
706-821-1796